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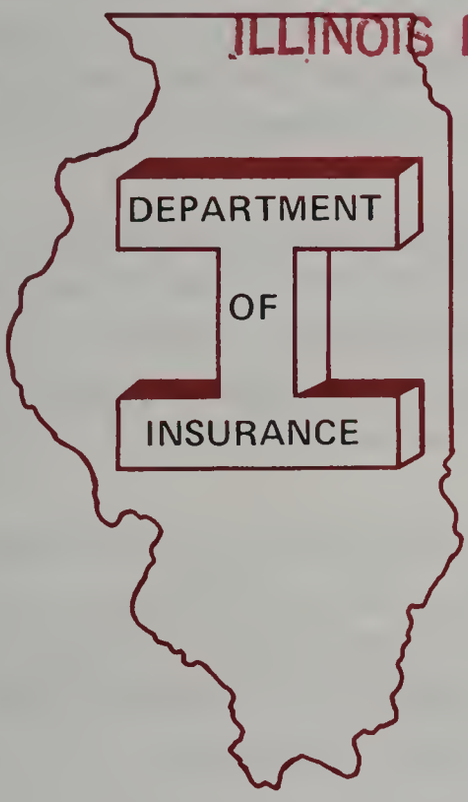

What You Should Know about Automobile Total Loss Settlements

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20M 4-86

1. Total Loss Claims

When you are involved in an automobile accident, one of the first things you may have to do is file a claim for damages to your vehicle. If your car is a total loss, this procedure can sometimes be confusing.

Your automobile insurance policy requires both you and your insurance company to follow certain steps after a loss occurs. This publication summarizes those requirements and outlines your rights.

The Illinois Department of Insurance has established regulations to protect you when you file an insurance claim. It is also important that you read your policy carefully so that you clearly understand your responsibilities.

If you still have questions, you can contact our Consumer Services Section at one of the following locations:

320 West Washington Street
Springfield, IL 62767
(217) 782-7446

or

100 West Randolph Street
Suite 15-100
Chicago, IL 60601
(312) 917-2427

2. Your Duties

1. You must **immediately report all losses** directly to your insurance producer or company.

2. If you suspect **theft** or **vandalism**, you must also report it immediately to the **police**. If you fail to do so, your company may deny your claim.

3. You must **protect** your automobile **from further damage**. For example, if you fail to cover a broken windshield and the upholstery is damaged by rain, your company can refuse to repair the seat.

4. Most insurance policies require that, within 91 days after the loss, you must **submit a sworn proof of loss**. A sworn proof of loss usually states the date of loss, how it happened, and for what purpose the automobile was being used. If you fail to submit a proof of loss your company may deny your claim.

5. You must **cooperate** with the insurance company, submit to examination under oath, if so requested, and show them the damaged property. If you fail to cooperate your company may deny your claim.

6. You should review the **Conditions** section of your policy for other possible requirements.

3. Your Insurance Company's Duties

When you file an automobile insurance claim, your insurance company has three options:

1) Replace the damaged or stolen property;
2) Repair the damaged property; or
3) Pay for the loss in cash.

Insurance Department regulations require the company to follow certain standards for each option.

4. Replacement

If the insurance company elects to replace your vehicle, the replacement must be a specific make and model comparable to your totalled vehicle, and it must be available in as good or better overall condition than your totalled vehicle.

Replacement vehicles must be purchased through licensed dealers. Vehicles that are no more than three years old must be warranted.

If you reject a replacement vehicle, the insurance company must pay only the amount it would have otherwise paid for the replacement vehicle including applicable taxes, transfer and title fees. The company must offer you the replacement vehicle and you must reject the offer.

If you desire a replacement vehicle of similar value, this replacement method is also permitted.

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5. Cash Settlement

If the insurance company elects to make a cash settlement for your totalled vehicle, they must first determine its retail value. Companies normally use guide books published by various sources.

If your vehicle is not listed in one of these guides, the company can use dealer quotes. Ordinarily, however, newspaper advertisements and dealer quotations are not acceptable sources of market value.

6. Payment of Sales Tax

If within 30 days of a cash settlement, you can prove that you have purchased another vehicle, the company must pay the applicable sales tax, transfer and title fees in an amount equivalent to the value of the total loss vehicle. If you purchase a vehicle with a market value less than the amount previously settled upon, the company must pay you only the amount of sales tax that you actually incurred and include transfer and title fees.

Your insurance company must give you written notice of this procedure at the time of settlement.

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7. Betterment Deductions

The insurance company is allowed to make deductions from the retail value if your automobile has old, unrepaired collision damages. There is no limit to the amount of the deduction.

The insurance company can also make deductions for wear and tear, missing parts and rust, but the maximum deduction may not exceed $500.00.

All deductions must be itemized and specified as to dollar amount.

8. Retaining Your Totalled Vehicle

In an effort to minimize automobile "chop shop" crime, the Illinois Vehicle Code does not permit you the right to retain the salvage once your automobile has been deemed a total loss by your insurance company. The insurance company must take possession of the vehicle.

9. Right of Recourse

If you cannot locate a replacement vehicle within 30 days of receiving a cash settlement, you may have some additional rights under your insurance contract.

If you cannot purchase a substantially similar vehicle for the market value determined by the company, but you have located a substantially similar vehicle that costs more, the following procedure(s) shall apply.

1) The company shall either pay you the difference between the original settlement and the amount of the substantially similar vehicle which you have located or attempt to purchase this vehicle for you; or

2) The company shall locate a substantially similar vehicle for you at the market value determined by the company at the time of settlement; or

3) The company shall conclude the loss settlement as provided under the appraisal section of the insurance policy.

Your insurance company must give you written notice of this procedure at the time of settlement. This provision does not apply if the insurance company has opted to replace your automobile.

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This chart should assist you in determining the retail value of your automobile.

	Value
Make of Automobile	_____
Model	_____
Engine Size	_____
Type of Transmission (Auto/Standard)	_____
Power Steering	_____
Power Brakes	_____
Power Windows	_____
Air Conditioner	_____
Vinyl Roof	_____
Cruise Control	_____
Tilt Wheel/Telescope Wheel	_____
Power Locks	_____
Power Seats	_____
AM/FM Radio	_____
Stereo/Tape	_____
Rear Defog	_____
Mileage: Low/High	_____
Subtotal	_____
Minus Deductible	_____
Total	_____

The above figure represents an average automobile. Your automobile may be worth more or less than the above figure because of options on the automobile which are not listed in a guide book or because of the excessive wear and tear or old unrepaired damage to the automobile.